

terminating parental rights, this court "will not disturb the juvenile court's findings and conclusions unless the evidence clearly preponderates against the findings as made or the court has abused its discretion." In re R.A.J., 1999 UT App 329, ¶6, 991 P.2d 1118.

Mother argues that her contact with her children was limited through no fault of her own and that the State failed to provide a basis for comparison of her relationship with the children with the foster family's relationship because no therapist ever observed Mother interact directly with the children. Even considering these factors, however, there was sufficient evidence to support that termination was in the children's best interests and to provide a basis for the statutorily required findings.

The Utah Code requires consideration of certain factors in termination proceedings where the child is not in the parent's custody. Pursuant to Utah Code section 78-3a-409, the juvenile court must consider "the physical, mental, or emotional condition and needs of the child and his desires regarding the termination" if the child is able to express his desires. Utah Code Ann. § 78-3a-409(1) (2002). The court must also consider the parent's efforts to adjust the circumstances so that it is in the child's best interest to return home, including whether the parent maintained regular contact with the child. See id. § 78-3a-409(1)(b).

In addition, where the child is placed in a legal risk home, the court shall consider whether the child has become integrated in the family "to the extent that [the child's] familial identity is with that family" and whether the family is willing to permanently treat the child as a family member. See id. § 78-3a-410 (2002). The court must also consider the ties between the child and parent and the ties with the foster family; the capacity of the child's parent as compared with that of the foster family to provide for the child's needs; the length of time the child has lived in a stable environment; and the permanence of the foster family. See id.

Evidence was presented at trial to address each of the statutory factors. Although Mother attempted to maintain contact with the children while incarcerated, the evidence shows that the children were not strongly bonded with Mother and were well integrated with the foster family. B.K. expressed that she wanted to remain with the foster family "forever" and chose not to communicate with Mother when given the opportunity. Additionally, her memories of her mother were limited and primarily negative. A.V., who was about three years old during these proceedings, had little memory of her mother. Both girls

identified the foster parents as their caregivers and source of comfort. The foster family was committed to adopting the children. In sum, the evidence was sufficient to support the juvenile court's finding that termination was in the children's best interests.

Mother also asserts that the juvenile court erred in denying her motion to continue the termination trial until after her release from prison. Trial courts have discretion to "postpone a trial or proceeding upon good cause shown." Utah R. Civ. P. 40(b). In child welfare cases, no continuance may be granted "except upon a showing by the moving party that the continuance will not adversely affect the interest of the child or cause a hearing to be held later than child welfare timelines established by statute." Utah R. Juv. P. 54(c). "Trial courts have substantial discretion in deciding whether to grant continuances." Christenson v. Jewkes, 761 P.2d 1375, 1377 (Utah 1988).

The juvenile court did not abuse its discretion in denying Mother's motion for a continuance. Mother did not establish good cause for a continuance. Mother's speculative release, even if it occurred, would not affect the issues at trial. The trial was to determine whether there were grounds for termination and whether termination was in the children's best interests. The determination of those issues required evaluating Mother's past conduct and the status of the children. Mother's future release and possible treatment had no bearing on the trial issues.

In sum, there was sufficient evidence to support that termination was in the children's best interests. Also, the juvenile court did not abuse its discretion in denying Mother's motion to continue the trial. Accordingly, the termination of Mother's parental rights is affirmed.

Pamela T. Greenwood,
Associate Presiding Judge

Judith M. Billings, Judge

Gregory K. Orme, Judge